

Approved: _____

SARAH MORTAZAVI
Assistant United States Attorney

Before: THE HONORABLE DEBRA FREEMAN
United States Magistrate Judge
Southern District of New York



19MAG2191.

UNITED STATES OF AMERICA

- v. -

ABEL ACOSTA,

Defendant.

SEALED COMPLAINT

Violation of
18 U.S.C §§ 2252A(a) (2) (B),
(a) (5) (B), (b) (1), (b) (2),
and 2

COUNTY OF OFFENSE:
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

BRIAN URIBE, being duly sworn, deposes and says that he is a Special Agent with the Department of Homeland Security, Homeland Security Investigations Unit and charges as follows:

COUNT ONE

(Possession of Child Pornography)

1. From at least on or about July 6, 2018 to on or about March 5, 2019, in the Southern District of New York and elsewhere, ABEL ACOSTA, the defendant, knowingly did possess and access with intent to view, and attempt to possess and access with intent to view a book, magazine, periodical, film, videotape, computer disk, and other material that contained an image of child pornography that had been mailed, and shipped and transported using a means and facility of interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means including by computer, to wit, ACOSTA possessed sexually explicit videos of prepubescent minors, on an

electronic device located in the Bronx, New York.

(Title 18, United States Code, Sections 2252A(a)(5)(B), (b)(2), and 2.)

COUNT TWO

(Receipt and Distribution of Child Pornography)

2. From at least on or about July 6, 2018, in the Southern District of New York and elsewhere, ABEL ACOSTA, the defendant, knowingly did receive and distribute material that contains child pornography that had been mailed, and using a means and facility of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by electronic device, to wit, ACOSTA received and distributed sexually explicit videos of prepubescent minors using an electronic device located in the Bronx, New York.

(Title 18, United States Code, Sections 2252A(a)(2)(B), (b)(1), and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

1. I have been a Special Agent with the Department of Homeland Security for approximately eighteen years and I am one of the case agents with primary responsibility for this investigation. During that time I have received training and have participated in criminal investigations relating to child pornography. As part of those investigations, I have made and participated in arrests of individuals who have committed such offenses.

2. The information contained in this Complaint is based upon my personal knowledge, as well as information obtained during this investigation, directly or indirectly, from other sources, including, but not limited to, records obtained pursuant to judicially-authorized search warrants executed in Canada and conversations with, and reports prepared by, other law enforcement agents. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions and statements of and conversations

with others are reported herein, they are reported in substance and in part. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Background of the Investigation

3. Since approximately November 15, 2018, HSI has been involved in an investigation of ABEL ACOSTA, the defendant, for suspected receipt, distribution, and possession of child pornography.

4. Based on my participation in that investigation, my discussions with other law enforcement officers, and my review of report and records, I have learned the following:

a. From on or about October 25, 2017, members of the Royal Canadian Mounted Police, Integrated Child Exploitation Unit ("RCMP") were involved in an investigation of an individual ("Target-1") for online distribution of child pornography. During the course of its investigation, the RCMP determined that Target-1 used an instant messaging service, Kik Interactive Inc. ("Kik"), to discuss and trade child pornography with another Kik user using the online identifier ("DadsSophie").

b. During the course of the RCMP's investigation, on or about July 30, 2018, the RCMP obtained and executed a production order for the contents of the "DadsSophie" Kik account. After reviewing the returns for the "DadsSophie" Kik account, the RCMP found that between on or about September 4 and 7, 2018, "DadsSophie" had sent or received child pornography files to or from approximately 29 Kik users, including the Kik user "aventurabb7."

c. On or about September 13, 2018, the RCMP obtained a judicially-authorized search warrant, approved by a Judicial Justice for the Provincial Court of British Columbia, authorizing a search for the contents of, among other accounts, the "aventurabb7" Kik account.

d. On or about November 30, 2018, HSI received a set of records and files from the RCMP, including, among other things, the contents of the "DadsSophie" and "aventurabb7" Kik accounts and reports relating to the RCMP's investigation.

5. From my review of the reports and records the RCMP provided to HSI, I have learned, among other things, the following:

a. On or about July 6, 2018, Kik user "aventurabb7" sent approximately ten multimedia files to Kik user "DadsSophie," including the following videos:

i. An adult male performing oral sex on a prepubescent girl, lying on her back, with her face visible;

ii. An adult male vaginally penetrating a prepubescent girl, with her face visible, wearing a shirt with the words, "Fuck me," and an arrow pointing down to her genitals;

iii. An adult female digitally and orally penetrating a prepubescent girl lying on her back, with her face visible.

b. On or about July 17, 2018, "avenutrabb7" accessed Kik using the Internet Protocol ("IP") address 173.68.141.176 and sent "DadSophie" several chat messages. On or about September 12, 2018, "aventurabb7" accessed Kik using the IP address 71.190.239.27. Between on or about October 9 through on or about October 11, 2018, "aventurabb7" accessed Kik multiple times using the IP address 173.77.229.233. Based on my training and experience, I know that every computer or device on the Internet is referenced by a unique IP address the same way every telephone has a unique telephone number. An IP address is a series of four numbers separated by a period, and each number is a whole number between 0 and 254. Each time an individual accesses the Internet, the computer from which that individual initiates access is assigned an IP address.

6. Based on information obtained pursuant to a subpoena issued to Verizon, I have learned that the subscriber for the IP addresses 173.68.141.176, 71.190.239.27, and 173.77.229.233 is "Abel Acosta" located at "2140 Homer Avenue, Bronx, New York."¹

7. Based on a search of publicly available social media information for the username "aventurabb7," I have learned that a Twitter user with the account "@aventurabb7" lists the user as "living in the Bronx N.Y." on the account and lists the name

¹ The IP address associated with the child pornographic images sent by Kik user "aventurabb7" to the Kik user "DadsSophie" is 99.203.54.167. Based on information obtained pursuant to a subpoena issued to Sprint, I have learned that this IP address has expired and Sprint no longer has records related to the user of this IP address on July 6, 2018.

"Abel."

8. Based on my review of a Thomson-Reuters Clear database for the name "Abel Acosta" and the location "New York," I have learned that three names are associated with the name "Abel Acosta" and the location "New York": "Acosta, Abel," "Acosta Rondon, Abel G.," and "Acosta, AbelG." All three names were associated with the address 2140 Homer Avenue, Bronx, New York, 10473.

SEARCH OF 2140 HOMER AVENUE

9. On or about March 5, 2019, federal law enforcement agents and officers from the New York City Police Department ("NYPD") executed a judicially-authorized search warrant on 2140 Homer Avenue, Bronx, New York, 10473, the residence of ABEL ACOSTA, the defendant (the "Search Warrant"). ACOSTA was present during the search.

10. While the search was underway, ABEL ACOSTA, the defendant, was read his *Miranda* rights prior to his arrest. ACOSTA acknowledged his rights and agreed to speak to investigators. I personally participated in the interview of ACOSTA on or about March 5, 2019. Based on my participation in the conversation with ACOSTA, I have learned, among other things, that ABEL ACOSTA, the defendant, stated, in substance and in part, the following:

a. ABEL ACOSTA, the defendant, has previously used the Kik online identifiers "aventurabb7" and "avbb7" and his nickname is "aventura."

b. ABEL ACOSTA, the defendant, did not remember sending images of child pornography over a Kik group chat but believes he likely did because in order to receive images over the group chat, a user had to send images to the group.

c. ABEL ACOSTA, the defendant, has historically viewed images of child pornography involving post-pubescent minor girls.

11. From my discussion with law enforcement agents executing the Search Warrant, I have learned that law enforcement agents found a Samsung Galaxy S9 phone (the "Phone") on the premises. ABEL ACOSTA, the defendant, provided law enforcement agents with the password for the Phone. ACOSTA subsequently signed a consent to search form for the Phone.

12. I have also learned from law enforcement agents who

searched the Phone that the Phone contained a mobile application for the cloud storage service Dropbox (the "Dropbox App"). A law enforcement agent executing the Search Warrant showed ABEL ACOSTA, the defendant, a screenshot displaying the profile information for the owner of the Dropbox App on the Phone. ACOSTA stated, in substance and in part, that he has historically used the Dropbox App with the profile information displayed on the screenshot shown to him.

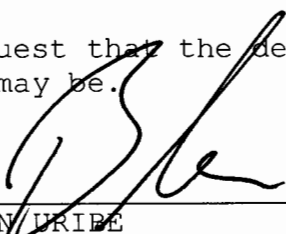
13. From my discussions with law enforcement agents, I have learned that the Phone was searched while it was on "Airplane" mode. Based on my training and experience, I have learned that when a cellular phone is on Airplane mode, it cannot send or receive data through wireless or cellular connections. From my discussions with law enforcement agents who viewed the contents of the Dropbox App while the Phone was in "airplane" mode I have learned that the Dropbox App on the Phone contained, among other things, the following content:

a. A file with the file name "3yo&Dad.wmv" that contains a thumbnail preview image depicting what appears to be a naked infant whose genital area is blocked by the head of what appears to be an adult male. The infant's face is visible in the image.

b. A file with the file name "7.wmv" that contains a thumbnail preview image depicting what appears to be an adult male penis against the nude genital area of what appears to be a minor female. The minor's face is not visible in the image.

c. A file with the file name "(pthc)_notta_9_yo...n.mpg.vid[1].mp4" that contains a thumbnail preview image depicting what appears to be a minor child bending over and exposing nude buttocks. The minor's face is not visible in the image. Based on my training and experience and my conversations with ABEL ACOSTA, the defendant, I have learned that "PTHC" is an acronym for the term "Pre-Teen Hard Core" and is often a marker of child pornography.

WHEREFORE, I respectfully request that the defendant be imprisoned or bailed, as the case may be.



BRIAN URIBE
Special Agent
Homeland Security Investigations

Sworn to before me this
5th day of March, 2019

A handwritten signature in black ink, appearing to read "Debra Freeman", is written over a horizontal line.

THE HONORABLE DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK